

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, .	Case No. 2:20-cr-00251-HB-1
Plaintiff, .	
v. .	U.S. Courthouse
	601 Market Street
	Philadelphia, PA
NICHOLAS JAMES FUCHS, .	
Defendant. .	January 16, 2024
.	1:55 p.m.

TRANSCRIPT OF SENTENCING HEARING
BEFORE HONORABLE HARVEY BARTLE, III
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

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1 PROCEEDINGS

2 THE COURT: Good afternoon, you may be seated.

3 GROUP COLLECTIVELY: Good afternoon, Your Honor.

4 THE COURT: The Court has before it this
5 afternoon the sentencing in the case of the United States
6 of America versus Nicholas James Fuchs, criminal action
7 number 20-251.

8 Mr. Murray or Ms. Crawley, are you going to be
9 speaking for the Government?

10 MS. CRAWLEY: Yes, Your Honor.

11 THE COURT: Hear from you first, and then I'll
12 hear from Ms. Natali and then the defendant.

13 MS. CRAWLEY: Yes, Your Honor.

14 THE COURT: You may proceed.

15 MS. CRAWLEY: The Government is impressed by the
16 amount of support that Mr. Fuchs has, and we are also
17 impressed with other aspects of his activity in the case,
18 both positively and negatively, Your Honor. And so what
19 I'd like to do is just to distinguish between his role in
20 the offense on the one hand and the sterling cooperation
21 that he provided.

22 Now, as the Court is aware, the guidelines are
23 the starting point, the base offense level is a 26. There
24 is a new adjustment for zero history points, defendant like
25 Mr. Fuchs, under 4(C)1.1, he is accepted responsibility,

1 which makes his total offense level 21. With a criminal
2 history category of one that means that he has a sentencing
3 guideline range of 37 to 46 months.

4 Now, one area of dispute between the parties is
5 whether Mr. Fuchs has -- is deserving of a mitigating role.
6 And the Government's response on that is no, we do oppose
7 that, whether it is phrased as a variance or as Counsel had
8 put it earlier in her objections to the pre-sentence
9 report, as a request for a guidelines downward adjustment.
10 We don't believe it's appropriate.

11 As the Court has learned at trial and as we have
12 said at previous sentencings, this is not a case in which
13 the Government believes there was a hierarchy. We believe
14 that each of the defendants in this case played a critical
15 role. No one could have done this alone, but that's the
16 whole point. They work together to do what they tried to
17 do, that is to export sanctioned Iranian oil to China and
18 to sell it there for profit, to make a business out of that
19 activity, Your Honor, in violation of the international
20 export -- excuse me -- the International Emergency Economic
21 Powers Act. And this is, as the Government has stressed, a
22 very serious crime. But everyone was needed. Everyone
23 played their part.

24 Mr. Fuchs asks for downward variance, and hadn't
25 before asked for a downward adjustment. But this was a

1 group of people, Your Honor, who came together, in large
2 part because of Mr. Fuchs in order to make millions of
3 dollars over months, if not years, by helping the
4 Government and the country of Iran, an enemy of the United
5 States.

6 Now, Mr. Fuch's role was crucial. He had learned
7 from his -- someone he knew in up in the Northeast, that
8 is, he didn't know J.M, but he did know his partner, Nick
9 Hovan. And Nick Hovan's partner, J.M., had learned a
10 source of sanctioned oil. He reached out to Mr. Hovan, and
11 Mr. Hovan in turn reached out to Mr. Fuchs.

12 As the Court will recall from the trial,
13 Mr. Fuchs had been taught by Mr. Hovan's brother when he,
14 Mr. Fuchs was at boarding school. The brother had worked
15 there so that Mr. Hovan was looking for potential buyers
16 and then Mr. Fuchs was a possible source.

17 Now, Mr. Fuchs was working for Stack Royalties,
18 the mineral rights company, and he used his connections
19 there. He made the most of those. He introduced -- at the
20 end of July of 2019, he introduced Hal Mason to one of his
21 co-workers, Mr. Thwaites. Mr. Thwaites, in turn brought in
22 Mr. Wang. And this was after Mr. Fuchs had learned at the
23 end of July of 2019 that the sanctioned oil would be coming
24 from Iran.

25 He introduced Mr. Mason also to his boss. That

1 is Dan Lane at stock royalties.

2 Now, because the meeting in New York that was
3 attended by Mr. Hovan, J.M. and Ravi, who was actually an
4 FBI undercover agent, and Hal Mason because that went so
5 poorly, it was a question of whether or not these people
6 who the defendants did not know were undercover operatives.

7 Mr. Hovan reached out to Mr. Fuchs to see whether
8 they should still come down to Dallas. And Mr. Fuchs said,
9 yes, they should. If he was only making introductions, he
10 would not have done this. He could have at that point
11 walked away and done nothing further. And that's not what
12 he did. He remained involved.

13 And so because that meeting went so poorly, as
14 the Court heard about at trial, Mr. Fuchs had a separate
15 meeting with the -- with Ravi and with Hal Mason in Dallas
16 when he came down -- when the two came down on the 18th of
17 September 2019.

18 Now, at that meeting, which was just Mr. Fuchs
19 and these two individuals whom he believed were the source
20 of the Iranian oil, he learned in excruciating detail about
21 how badly this meeting in New York went, and from
22 Government's Exhibit 1-4, the undercover agent told
23 Mr. Fuchs about the New York meeting.

24 We walk in. He's like sanctioned oil, you can go
25 to jail for that. You can't -- you can't do that. All the

1 money will be taken. And it was like a very, very
2 uncomfortable meeting. And the agent said further to
3 Mr. Fuchs, I walked into that meeting and literally told an
4 almost stranger that we're planning to commit something
5 that could send us to jail.

6 Now, Mr. Fuchs heard this, he was not deterred.
7 He said, I'm well aware of all the implications of that.
8 And he agreed to speak with his boss, Dan Lane, at -- and
9 make sure that Dan Lane was in fact had some interest in
10 oil that would be sanctioned oil from Iran. And then Mr.
11 Fuchs had a second meeting the next night with Ravi, with
12 Hal, and with his boss Dan lane.

13 So as the Court knows from the trial, the
14 September meetings were very significant. They were
15 critical to the case going on. And at the meetings that
16 were had, first the one with Mr. Fuchs by himself, then the
17 one with Mr. Wang and Mr. Thwaites the next afternoon. And
18 then another meeting with Mr. Fuchs and Mr. Lane the next
19 night, they all agreed on most of the major aspects of this
20 deal. And the critical introductions that Mr. Fuchs was
21 making here are by themselves enough that -- to show that
22 Mr. Fuchs was not a minor or a minimal participant in the
23 case -- in the deal, rather, but he did remain involved and
24 he communicated throughout the fall and the winter with his
25 co-schemers. He wasn't just checking up on how things were

1 going, he did more than that.

2 He reached out to Ravi, the undercover agent, and
3 he suggested additional buyers for the sanctioned Iranian
4 oil. He was all in, and he participated in the meeting
5 that I mentioned with Dan Lane at Stack Royalties, and was
6 in communication later about the possible Panamanian buyer
7 that Dan Lane initially was bringing to the table.

8 He didn't just make introductions and then step
9 back, Your Honor. He participated in discussions about
10 securing financing for the deal. And he participated in
11 discussions about laundering the Iranian's funds, the
12 proceeds that they would receive from selling the
13 sanctioned oil through -- and that was something with Dan
14 Lane, and that was through the purchase of Stack Royalties
15 mineral rights.

16 And Mr. Fuchs also discussed through encrypted
17 WhatsApp messages and phone calls, obtaining offshore
18 accounts and Antiguan passports, he himself formed a shell
19 corporation through which he could hide his proceeds from
20 the scheme. So he remained engaged throughout, Your Honor.

21 And he participated in a number of the various
22 encrypted WhatsApp chains. And he had telephone calls with
23 Mr. Hovan. which were of course not recorded, but those
24 still happened. He was keeping Mr. Hovan in the loop.

25 And he himself, Mr. Fuchs, formed an entity to

1 receive his laundered proceeds, and he negotiated for a
2 percentage of the profit. He was not just getting money
3 from the front end, he was getting money from Mr. Lane as
4 well on the additional laundering that was part of the
5 greater scheme that would be done through the sale of the
6 mineral rights, which is --

7 THE COURT: He's not been charged with money
8 laundering.

9 MS. CRAWLEY: He did not. And to his credit, he
10 was not charged because he came in earlier, which is a
11 separate issue --

12 THE COURT: Right.

13 MS. CRAWLEY: -- and he did admit, as the Court
14 heard, that he did engage in the money laundering and that
15 is to his credit.

16 He did -- he attended the meeting finally with
17 the other participants, and he was traveling from Dallas.
18 He signed a fraudulent contract between his new shell
19 company and the Mr. Thwaites' Swiss entity so that he could
20 receive his proceeds on the front end. And then this was
21 obviously in order to conceal the fact that the people
22 involved were receiving proceeds from an illegal deal.

23 And he knew that Mr. Thwaites and Mr. Wang would
24 be picking up Antiguan passports. The idea was they would
25 get Antiguan passports to help with this laundering. He

1 was aware of that.

2 And then at the meeting, which the Court heard
3 portions of at the trial, he did -- Mr. Fuchs explained his
4 contribution to the deal and then everyone was arrested.

5 So that we believe that based upon the definition
6 of what is a mitigating role and the various things that
7 are involved here with Mr. Fuchs, as a minor participant,
8 he would have to be less culpable than others. As a
9 minimal participant, he would be -- have to be among the
10 least culpable. But when the Court assesses Mr. Fuchs'
11 knowledge and his involvement and his culpability, we
12 believe that a fair resolution of that issue is that he was
13 an average participant. He understood the scope and the
14 structure of the criminal activity. He -- and these are
15 the factors that apply under the guidelines and whether
16 this is phrased as a guidelines issue or a variance, we
17 believe that the analysis should be the same.

18 He participated to a significant degree in
19 planning and organizing the criminal activity to the extent
20 anyone did since it was in fact an undercover activity --
21 excuse me -- an undercover case and that this was something
22 that thank goodness for our national security, there was no
23 actual sanctioned Iranian oil to be obtained here.

24 He did exercise decision-making authority to the
25 same extent that anyone else did who were the defendants in

1 the case. And he was -- had an extensive role in keeping
2 this group together. He went to get buyers to begin with.
3 And then he kept the group together, because as one person
4 put it, he was the linchpin of the group; that is, with Dan
5 Lane on the one side, and the other people who were
6 involved more on the front end of this conspiracy on the
7 other.

8 And he did stand to benefit to a significant
9 degree from the criminal activity. It is his burden to
10 bear to come forward with evidence to show that, and we
11 believe that he has not done so, so that we believe that
12 all of the factors here show that a mitigating role is not
13 warranted.

14 And there are several requests for downward
15 variances that are in addition to this mitigating role
16 question.

17 Should I address those at this time, Your Honor?

18 THE COURT: Whatever you'd like.

19 MS. CRAWLEY: Yes, Your Honor.

20 The argument has been made that sentencing
21 disparity would result if this Court were to impose a
22 custodial sentencing -- sentence here.

23 Now, despite the significance of Mr. Fuchs'
24 cooperation, which we will discuss in a moment, we don't
25 believe that that is so. We are seeking a sentence of

1 incarceration in this case.

2 Sentencing disparity refers to disparity between
3 this defendant and persons across the United States in
4 cases of this type. As Counsel correctly points out, there
5 aren't that many cases of this type. But the -- what we
6 believe the court -- the Third Circuit meant in the *Lacerda*
7 case, which we put -- that has been cited in our papers --
8 we believe that the Third Circuit made a wise decision in
9 that case to say that it is on the defendant to show that
10 if he believes that he is entitled or should receive the
11 same sentence of someone else in a different case, he
12 should show that his situation is parallel to theirs. And
13 I submit that Mr. Fuchs, his able counsel has not found
14 such a case. And it -- sentencing disparity also has to do
15 with really, it's not just against one case. This is not a
16 race to the top or a race to the bottom of one judge does
17 something and then everyone else has to do the same thing.
18 That's what the guidelines are for.

19 And so for those reasons, Your Honor, we believe
20 that there would not be sentencing disparity caused should
21 this Court impose a custodial sentence.

22 Counsel points out that this is a non-violent
23 crime. That is in the nature of this sort of crime, so we
24 don't believe that a variance is justified on that basis.

25 Counsel relies on application note 2 to Section

1 2M 5.1 of the Sentencing Guidelines. We don't believe that
2 that is appropriate. It is not -- it is not the case.
3 Counsel seems to suggest that the security interests of the
4 United States, our national security interests, are not
5 harmed when a case of this type is brought when -- because
6 there wasn't any sanctioned Iranian oil, so no harm, no
7 foul. That is not correct. We believe that he -- clearly
8 these people could have caused a great deal more harm had
9 there been Iranian oil for them to sell. But the executive
10 branch has decided --

11 THE COURT: Iranian oil for them to buy.

12 MS. CRAWLEY: I'm sorry, for them -- well, for
13 them to sell, having bought it from the Iranians, they
14 believed, and then sold it to the Chinese. I stand
15 corrected.

16 But essentially, the national security interest
17 of our country that is harmed by persons believing that
18 they can get together and make a business out of this. And
19 so we believe that this is just another packaging of the
20 argument that it's an undercover case, no harm, no foul.

21 We strongly disagree. We believe that it is
22 appropriate, if not imperative, to prevent our citizens
23 from helping the enemies of our country. And that cases
24 like this serve that function and that this -- so that
25 therefore application note tw2o does not assist Mr. Fuchs

1 in this case.

2 We can -- the Government does have a motion, Your
3 Honor.

4 THE COURT: Go ahead.

5 MS. CRAWLEY: Okay. Now, I am -- as I said at
6 the beginning, I think it's important to distinguish
7 between Mr. Fuchs' role in the offense and his cooperation.

8 His role in the offense was essentially just as
9 important as anyone else's. He was more or less an average
10 participant. But his cooperation is another story. His
11 cooperation was sterling. He came in immediately. He was
12 talking to the agents the day of his arrest. And he -- out
13 of all of the persons who said anything that day, he was
14 certainly the most truthful.

15 He has not wavered since that time. And I have
16 to say, this was a -- this was very helpful to the
17 Government. His cooperation was truthful, it was timely,
18 and it was substantial. We do still believe because of the
19 nature of the offense and it's -- the -- how serious it is
20 and how important deterrence, especially general deterrence
21 is in this case, that we are still seeking a sentence of
22 incarceration after the Court takes into account the
23 admirable and extensive cooperation of the defendant.

24 Thank you.

25 THE COURT: Ms. Natali.

1 MS. NATALI: Certainly, Your Honor.

2 I'd like to first start with where Ms. Crawley
3 ended, if that's all right with the Court with regard to
4 the motion, Your Honor.

5 THE COURT: Absolutely.

6 MS. NATALI: Yes. We submitted to the Court,
7 albeit just this morning or last night, a chart that we
8 thought would be helpful to the Court. Just, --

9 THE COURT: Yeah, I've read it.

10 MS. NATALI: Yeah, just to illustrate in a
11 helpful visual way for the Court to really compare the
12 different cooperators in this case. And so we just -- I
13 just want to -- we appreciate and we agree with the way the
14 Government has highlighted my client's cooperation. We
15 agree with that. He was a model cooperator over the last
16 four years. He did everything the Government asked of him.
17 Upon arrest, he consented the search of his cellphone
18 immediately.

19 And in stark contrast to the other defendants,
20 one of those defendants litigated a motion to suppress
21 before Judge Brody. Several agents had to testify. There
22 was briefing on both sides. There was an opinion written
23 by Judge Brody. And it wasn't until after Mr. Hovan
24 reviewed all the discovery, filed all his motions,
25 litigated, and wasted the Government and the Court's time

1 and realized that he was losing, and then learned that my
2 client was going to be cooperating against him, then
3 Mr. Hogan decided that he was going to cooperate, in stark
4 contrast with my client, Your Honor. That is quite the
5 record for a cooperator to put the Government to its test
6 and fight with the Government is really quite remarkable.

7 And so that was the reason for the charge. It
8 was years later that Mr. Thwaites and Mr. Hovan saw the
9 light of day that my client saw the day that he was
10 arrested and met with the agents and consented to the
11 search of his phone instead of litigating over his phone.

12 And it was within days that we went to the U.S.
13 Attorney's Office, albeit with different prosecutors with
14 AUSA Jennifer Williams and Michael Rinaldi, and with these
15 agents where we went through his phone and he provided a
16 roadmap of his phone with hundreds of WhatsApp messages,
17 and call logs, and text messages, and documents, and
18 contracts, and everything that was on his phone, even
19 before the Government had had the opportunity to fully like
20 digest what was on that phone, he was going over it with
21 them and helped them build their case. Because recall,
22 Your Honor, this case began with a complaint and warrant,
23 so this was before the indictment. This defendant helped
24 the Government build its case and testified in the grand
25 jury before seeing any discovery and without any fight

1 against the government.

2 His cooperation led to convince Mr. Hovan and
3 Mr. Thwaites to plead guilty. His testimony, as Your Honor
4 knows at trial, was quite lengthy and helped to convict
5 Mr. Lane and Mr. Wang. And we submit that this was a
6 completely different case without my client. From the
7 beginning until the end, it was a different case without
8 his cooperation.

9 There were -- then I mentioned in my memo several
10 attempts to intimidate my client. All of those attempts
11 were reported to the FBI. Both involved people, suspicious
12 folks going to residences where he wants -- one of them he
13 formally resided and another one where he did reside, a
14 gentleman waited in his lobby, and he contacted law
15 enforcement at that time. And that --he still didn't
16 waver. As the government said he never wavered with any of
17 his cooperation.

18 And so we submitted that chart just to show you
19 all the different docket entries. There were 500 docket
20 entries on Mr. Hovan and Mr. Thwaites' docket that we
21 reviewed and compare. And you could see from the chart how
22 different, how our client really is in stark contrast. And
23 we submit that we'd like the Government to note and the
24 Court -- Your Honor to note and take that into account when
25 considering the extent of the departure for the 5k.

1 And with that, I'd like to continue at this time
2 with the rest of my presentation with regard to the
3 different variances.

4 And I'd also, Your Honor, just like to note the
5 folks that are in the courtroom, and we have a couple
6 folks, short comments by them.

7 THE COURT: You may.

8 MS. NATALI: Okay. So I'd like to start with
9 that before my argument.

10 THE COURT: Whatever you want.

11 MS. NATALI: Okay. So as I call your name, I
12 just like -- would like folks to stand in the courtroom
13 supporting my client or my client's mother and Sutherland
14 Fuchs; his brother, Slater Fuchs and his brother's wife,
15 Ellen Fuchs. And we have a family friend, Mr. Tim Berry.
16 We also have my client's girlfriend, Kelly Donahue.
17 They're all here in support. They've all submitted
18 letters, Your Honor.

19 And if the Court accepts, I'd like to have my
20 client's mother come up to the podium and make a brief
21 statement now.

22 THE COURT: Ms. Spicer, will you please swear in
23 the witness.

24 ///
25

ANN SULLIVAN FUCHS,

1 a witness, having been first duly sworn, was examined and
2 testified as follows:

3 THE CLERK: Please state your name for the
4 record.

5 MS. FUCHS: Ann Sullivan Fuchs.

6 THE CLERK: Thank you.

7 THE COURT: Good afternoon.

8 DIRECT EXAMINATION (NARRATIVE)

9 MS. FUCHS: Your Honor, I'm extremely grateful
10 and humbled to be allowed to speak to you on behalf of my
11 son Nicholas James Fuchs.

12 As I thought about today, I'm both saddened by
13 the offense that my son committed, but also confident in a
14 bright future for an exceptional young man that made an
15 enormous mistake.

16 I adopted Nicki when he was two weeks old with my
17 husband, Jim Fuchs. And he was our dream son that we'd
18 been trying to have for many, many years.

19 One year later we adopted Nicky's biological
20 brother, Slater. They both attended the Buckley School in
21 New York. Nicky then went off to Berkshire, a boarding
22 school in Sheffield, Massachusetts. Sadly, tragically, the
23 boys lost their father at that time. And then they both
24 attended Southern Methodist University in Dallas, Texas,
25 where they were roommates.

1 Jim and I raised Nicki and Slater in New York
2 City. They attended Buckley, as I mentioned, a rigid and
3 academically challenging school that provoked an advanced
4 level of thinking and instilled a high standard of ethics
5 and morals in each student. Jim and I sought to emphasize
6 those standards, same standards at home.

7 Nicki then attended boarding school and displayed
8 an innate ability to make friends and excel at living on
9 his own while still being a teenager. Nicki was outgoing
10 and curious when in our home with close friends or his
11 brother, but he was surprisingly very shy in the classroom.
12 I was always taken aback when I visited him in his
13 elementary school or high school with his very quiet, never
14 raising his hand demeanor.

15 Outside of the house, Nicky seem to lack
16 confidence while trying to gain others approval. From a
17 very early age, he was always concerned with what he was
18 going to do professionally. If there was one thing he didn
19 know, it was that he wanted to succeed at whatever he
20 pursued, and doing so earn the respect of those around him,
21 which would in turn, of course, increase the self-
22 confidence.

23 When he pursued his first job after graduation
24 without my help, he was excited just to get the job
25 interview. He was then thrilled that he'd actually landed

1 a job. At that time, he was enthusiastic, energetic, and
2 totally inexperienced.

3 Having said all this, Your Honor, there is no
4 excuse for my son's actions. But I believe that, like me,
5 you may recognize a pattern from the time he was a young
6 boy to his adult life. He was a young man who hadn't had a
7 tremendous amount of confidence throughout his life. He
8 was in his first job out of college trying to gain some
9 financial independence and be successful. Unfortunately,
10 then my son made some truly regretful decisions.

11 I have had the unique perspective of being able
12 to listen and watch my son from the time he was arrested to
13 this hour before his sentencing. From the time he was
14 arrested, his remorse for his actions was immediate. He
15 knew what he had done was wrong and was profoundly ashamed,
16 incredulous that he could committed an offense that was so
17 reprehensible. It was extremely difficult for him to be
18 with me, his brother, or his friends. His anger at himself
19 has been overwhelming. Regret and shame continuously run
20 through his veins.

21 My son has been tortured by deep self-
22 condemnation, with a thought that he could commit such an
23 offense. He has been even more tortured by seeing what his
24 actions have done to those around him who he loves the
25 most.

1 Having been raised with such strong moral and
2 ethical values, the idea of committing an offense like this
3 screams regret and shame through his veins every day and
4 every night.

5 Importantly, I believe it's one's reactions to
6 adversity, the reaction to adversity, not adversity itself,
7 that determines how one's life story will develop.

8 After his arrest, he moved out of Texas, got away
9 from the oil and gas business, and worked with some small
10 startup companies in the roofing business, trying to
11 develop an expertise that would be valued by others and
12 contribute to society in a positive way. He tried to turn
13 his life around and enter therapy which continues today.

14 For close to four years, while almost paralyzed
15 by shame, regret and dishonor, he has been totally focused
16 on trying to make up for such a wrong. I believe that my
17 son is now leading a life of purpose, has done an admirable
18 job of picking up the pieces to lead a life of dignity and
19 honor.

20 Nicki has learned the hard way. He wants nothing
21 more than for his family to look at him with respect and
22 honor and he's begun to walk down that road one day, one
23 hour at a time.

24 Finally, I think the thing that's haunted him the
25 most is that he did anything against the United States of

1 America. My son has had the opportunity to travel and see
2 how extremely fortunate he is to be an American and live in
3 the United States. He has shown deep remorse and regret/

4 As his mother, I can assure you, Your Honor,
5 Nicki has learned his lesson and I know would never do
6 anything ever to even remotely commit any possible offense
7 at all ever again.

8 Your Honor, I humbly ask for your leniency for my
9 son. Thank you for allowing me this time.

10 THE COURT: Thank you for coming.

11 MS. NATALI: Tim Barry.

12 THE COURT: Ms. Spicer, would you please swear in
13 the witness.

14 TIMOTHY F. BARRY,
15 a witness, having been first duly sworn, was examined and
16 testified as follows:

17 THE CLERK: Would you please state your name for
18 the record.

19 THE WITNESS: Timothy F. Barry.

20 THE CLERK: Thank you.

21 THE COURT: Good afternoon.

22 DIRECT EXAMINATION

23 BY MS. NATALI:

24 Q Mr. Barry, could you just please explain to the
25 Court a little bit about your background and who you are,

1 how you know my client.

2 A Your Honor, I'm a friend of the Fuchs family.
3 I've known them since approximately 1998. At that time, I
4 was employed as a lieutenant colonel, the number two
5 position in the Connecticut State Police. Their father,
6 Jim Fuchs, reached out to me as he was in charge of the
7 charity program that provides college scholarships to
8 children of police officers and firefighters that are
9 killed in the tri-state area in the line of duty and
10 provides college scholarships to them.

11 He wrote a letter to me. We subsequently met.
12 We actually played around a golf a couple of weeks later,
13 and we became fast friends, and I got to know the family
14 very well, and his family got to know me very well.

15 Q And when was that?

16 A That was 1998. At that point, Nicholas Hughes
17 was about five years old.

18 Q And can you just tell us a little bit about your
19 family, where you're from and your background?

20 A I actually come from a family of law enforcement
21 officers. I have -- my parents had six sons. Five of the
22 six were law enforcement officers, including the FBI; the
23 New York City Police Department; Nassau County, New York;
24 Rochester, New York; Greece Police Department. I worked
25 for the Connecticut State Police. And I did have one

1 brother that we refer to as the only success in the family,
2 Your Honor, not being involved in law enforcement.

3 I also have several nephews that are involved in
4 law enforcement with the Georgia State Patrol, and other
5 agencies as well. So I come from a family of law
6 enforcement officials that are dedicated to public service.

7 Q And can you tell the Court your relationship with
8 my client?

9 A Yes. Actually, over the years, we've had a lot
10 of events together. We've gone to sporting events
11 together. At the time back then when the boys were
12 teenagers, their father was older, and the boys would have,
13 for example, sleepovers with their schools at a mountain
14 resort in Connecticut. And I would go in and I was
15 actually, by their father, named their honorary Godfather,
16 they refer to me both -- both boys refer to me as Uncle
17 Tim. I've known them, as I said, for the last 20 something
18 years.

19 And we'd have sleepovers. We went to ballgames
20 together. I was at their house for meals. They were at my
21 house for meals. They would come -- I had Jet tickets. I
22 probably shouldn't say that in Philadelphia, but --

23 THE COURT: That's all right.

24 A -- I was a Jet season ticket holder for 10 years,
25 and they came to games with me. I went to Yankee games

1 with them. We went through a lot of different events
2 together and the families were close, and we got to know
3 each other very well.

4 Q And lastly, can you just share with the Court
5 your thoughts about any insight that you believe is
6 relevant to the proceedings today?

7 A Yes. Your Honor, I have to say that I agree that
8 what he did was reprehensible. That is completely out of
9 character for him. I was actually stunned when I got the
10 call, and I'm not a person that's easily shocked.

11 But I think with some certainty that much that a
12 human being can, I think I'm a good judge of character, I
13 don't believe that Nicholas Fuchs will ever, ever offend
14 anyone. He'll never offend again. And he'll never repeat
15 any type of crime in his life. And I'm absolutely certain
16 of that.

17 He has learned his lesson. He has been punished.
18 And he carries that stigma of a felony conviction with him
19 the rest of his life. And I believe firmly that the days
20 of his mistakes are over.

21 THE COURT: Thank you. Thank you very much for
22 coming.

23 THE WITNESS: Thank you, Your Honor.

24 MS. NATALI: Your Honor, my client does intend to
25 allocute. Would you --

1 THE COURT: Well, I think we need to hear from
2 you about all these departures and variances you're
3 seeking.

4 MS. NATALI: Certainly, Your Honor. I just
5 wanted to let you know that he will do that.

6 THE COURT: Well, that certainly be helpful.

7 MS. NATALI: Okay. I will address the 3553(a)
8 factors, various arguments. I'm sure the Court has read
9 the memo we submitted and the many --

10 THE COURT: I've read your memo, the Government's
11 memo, and all the papers that have been submitted, all the
12 letters, psychological report, Dr. Atkins.

13 MS. NATALI: Yes. So I will summarize now the
14 arguments regarding the 3553(a) factors, as well as my
15 various arguments. And I will also comment on some of what
16 Ms. Crawley has already spoken about today.

17 THE COURT: Are you making any departure motions?

18 MS. NATALI: No, Your Honor, we are not.

19 THE COURT: Okay, just variance.

20 MS. NATALI: Just various arguments.

21 THE COURT: All right, thank you.

22 MS. NATALI: Yes, certainly, Your Honor.

23 We submitted lengthy objections and we have no
24 further objections to the pre-sentence investigation
25 report. No departures arguments at this point.

1 THE COURT: All right, go ahead.

2 MS. NATALI: I'd like to first start with the
3 history and characteristics of my client and focus the
4 Court's attention on my client's youth, as the Court must
5 view the conduct in this case and the context of the point
6 in his life when this occurred.

7 He was in his mid twenties, no criminal record.
8 Aand his youth and lack of criminal history are essential
9 factors for this Court to consider.

10 All of the letters highlight some themes that he
11 was sensitive, that he is compassionate, that he was a
12 people pleaser, and somewhat insecure. And that also bears
13 out and Dr. Atkins' report. You know, you heard from
14 Nicki's mother and you have her letter. You know, he was
15 quiet, sensitive, insecure and trying to please others.

16 You also had the letter from his biological
17 brother, Slater, because they were both adopted. And his
18 letter was quite remarkable and commented on his compassion
19 and how he was the best friend and the best brother that
20 anyone could have had.

21 You heard from Nicki's girlfriend, Kelly, and you
22 saw the pictures, and how she commented how compassionate
23 and dedicated a person he is, and how she marvels at how he
24 is with her young daughter. And you can imagine, Your
25 Honor, that she wouldn't -- she wouldn't want to have

1 someone driving her daughter to school every day and around
2 her daughter if she didn't really have the highest regard
3 for this young man. He's serving as a father figure in her
4 daughter's life.

5 And you heard from the former colonel commanding
6 officer of the Connecticut State Police and state troopers
7 just now about what a good man he is and how he believes
8 that he learned his lesson. And the many, many other
9 letters that I won't go through, where they talked about
10 how -- what a genuine loyal person he is, and how he always
11 was seeking to please others, many times to a fault, Your
12 Honor.

13 And many Courts have considered the defendant's
14 age as a factor in sentencing below the guideline range and
15 allowing for a variance.

16 In his mid twenties, he was still navigating his
17 transition from college to his first job without the
18 assistance of a father figure, a father in his life. He
19 was the youngest of all the defendants in this case. And I
20 just want to point that out to the Court, that he was the
21 youngest person who was operating in the scheme.

22 He was adopted by his parents, and unfortunately,
23 his father died in a particularly formative and vulnerable
24 time in his life. He not only lost his father, but he lost
25 someone who was a role model and really a hero to him.

1 And this really had a dramatic impact on his
2 life. He began using drugs and alcohol to dull the pain of
3 that, the loss of his father. And, you know, as noted in
4 Dr. Atkins' report that was quite a problem for him. And he
5 struggled with that for a long time. As he sits here in
6 court today, I, myself have personally watched this young
7 man mature over the last four years, and he is not the same
8 person as he sits here today that he was back in 2019 and
9 2020.

10 He does not abuse alcohol and marijuana. He is
11 in therapy. He is going weekly to AA meetings. He has
12 sought to improve himself. But at the time of this
13 offense, he was in his mid twenties. He's now --

14 You're 30, right?

15 THE DEFENDANT: Yeah.

16 MS. NATALI: He's now 30, Your Honor. And so
17 he's had time, and he's had really remarkable post-offense
18 rehabilitation, Your Honor.

19 And Your Honor mentioned that the report of
20 Dr. Atkins. and I will just highlight that was Exhibit 8 in
21 my filings, all the different factors that went into his
22 report. And based on his evaluation and to a reasonable
23 degree of certainty, he met the diagnostic criteria for
24 social anxiety disorder, mix personality disorder with
25 dependent and avoidant features, alcohol use, cannabis use

1 disorder. And he also comes close to me and diagnostic
2 criteria for autistic spectrum disorder.

3 He showed immaturity, naivete, deficits in self-
4 confidence, dependency, feelings of inferiority and
5 inadequacy, social anxiety, disorder, submission,
6 submissiveness, excessive need for reassurance, feelings of
7 helplessness, fear, being anxious about how he's going to
8 be able to fit in in the world, being driven to succeed and
9 his fear of not succeeding and loneliness.

10 And, quite significantly, I noted in the pre-
11 sentence investigation report at paragraph 70, the symptoms
12 of these conditions have challenged him throughout his life
13 and has substantially contributed to his offense related
14 choices and decisions.

15 And with all of that, his age, and his
16 characteristics that I've described, that is part of our
17 argument for variance in this case.

18 The Government didn't comment on Dr. Atkins'
19 report, or his his deficits, or the different diagnostic
20 criteria that Dr. Atkins mentioned, or the fact that he was
21 adopted, or the fact that his father died when he was a
22 teenager, or the fact that he had alcohol use disorder, or
23 marijuana use disorder. All of that was absent from the
24 Government's memorandum and so that's why I want to make
25 sure to point all of these things out to the Court with

1 regard to a variance because I did not see that in the
2 Government's memo and I did not see -- hear that today from
3 Ms. Crawley in her remarks.

4 All of that is mitigation and grounds for a
5 variance. A defendant this young with no criminal record
6 and with such significant cooperation, there are many, many
7 cases that talk about disparate treatment in sentencing,
8 disparate sentencing, in a case like that with the
9 defendant this young with no criminal record, this type of
10 extraordinary cooperation, as I applaud the Government has
11 noted in court today in its filing, it is warranted for a
12 variance. And, in fact, someone in his shoes and another
13 part of this country would easily get a variance in
14 sentencing. And that's -- that's what should be considered
15 in terms of unwarranted sentencing disparities, especially
16 in a case where it was an attempt, and we do not in any way
17 disagree with the Government that this was an extremely
18 serious offense.

19 However, the fact remains that it was an attempt
20 and it was an undercover case. So it was not a case where
21 there was a victim. There is no victim in this case.
22 There's no mention of that in the case whatsoever. There's
23 no restitution being ordered, which is a sentencing factor.

24 In terms of his post-offense rehabilitation, he
25 is in weekly therapy. He goes to AA meetings weekly. He

1 moved away from Texas away from the oil and gas business to
2 be close to his mother. He worked different jobs. He's
3 now started his own business. He is in a healthy
4 relationship. And he's had nearly perfect pretrial
5 supervision. All of that goes towards post-offense
6 rehabilitation, Your Honor, and a variance is warranted on
7 that alone.

8 When you look at the nature and circumstances of
9 the offense, while the crimes were undoubtedly serious,
10 they were non-violent, and he was not motivated, and
11 there's no evidence or any suggestion by anything other
12 financial. This was a financial crime. It was motivated
13 by getting financial independence. This was not a crime
14 that anyone has suggested was motivated by some malicious
15 desire to benefit the enemy of the United States, or any
16 desire to hurt the United States. It was about financial
17 independence. It's a financial crime in a case where there
18 is no victim.

19 And so in order to address the variance under
20 2M 5.1, I would just -- I don't disagree with much of what
21 Ms. Crawley stated on that, just that the entire scheme was
22 facilitated by undercover agents. It was not a
23 sophisticated scheme, and that the volume, an effect on
24 commerce was less than minimal, which is one of the
25 factors, Your Honor. Here it was not. There was no oil.

1 That there was no real scheme. It was really quite a sort
2 of poorly written screenplay. It wasn't very
3 sophisticated. At best, it was an attempt that never --
4 that never came to fruition.

5 In terms of minor role, Your Honor, the
6 Government spent a lot of time on that. And I don't
7 disagree with much of what the Government has said about
8 minor role. The PSR notes that it with regard to this at
9 paragraph 40, that this might be appropriately addressed as
10 a possible basis for a downward variance. And so we are
11 not seeking to have the Court make findings on a departure,
12 especially post Booker.

13 We're asking for the Court to just consider some
14 variance, consider the totality of what this young man did.
15 He was not the mastermind of the scheme. There is no
16 evidence to suggest that he came up with this idea
17 whatsoever. He didn't devise the scheme. He didn't come
18 up with the scheme.

19 It was introduced to him by Mr. Hovan who was the
20 one who was fighting with the Government and who decided to
21 plead and cooperate almost two years after my client. He
22 brought the scheme to my client. He was giving the
23 directions. My client was not involved, or did understand
24 -- even understand the ways to mix and disguise the oil.
25 It was not, you know, developed and understanding, you

1 know, how you would disguise the origin of oil. He didn't
2 -- he wasn't involved in that.

3 He also didn't understand how to draft any of the
4 paperwork. Yes, he signed it, that is correct, but he
5 didn't draft it, because he was not the mastermind behind
6 this thing.

7 He really attended all the meetings. I agree
8 with the Government. He was there. He was necessary. He
9 was the one who was introducing everybody and facilitating
10 everybody.

11 But our argument is not that he wasn't there.
12 Our argument is that in the implementation of the scheme,
13 he was not directing, and he was not in charge. He was not
14 knowledgeable enough to do that.

15 And there were meetings where it was important
16 for him to be there, and he was there phone, and phone
17 calls as well. And he was, as the Government said,
18 reaching out and trying to make the scheme happen. He was
19 doing that. But his role was not such that he had a core
20 role in implementing the scheme.

21 In fact, there were meetings where he did almost
22 nothing. And we -- as examples of that, because there's so
23 many phone calls in these, we have Exhibit 26 and Exhibit
24 27 that we gave the Court as exemplars of that where he did
25 almost nothing at those meanings. Pages and pages and

1 pages of the transcript. And he was saying and doing
2 nothing. He was just sitting there. And our argument is
3 that he had a minor role in the implementation of the
4 scheme. After he introduced folks, at those meanings, he
5 had a minor role.

6 In fact, in Exhibit 27, the undercover agent,
7 actually forgot that he was on the phone call and they
8 joked and laughed about it. Oh, right. Oh, Nicki's here.
9 And so -- and that was because our argument is that while
10 he did make the introduction, and while he was a willing
11 participant, he was less involved and did not mastermind
12 the scheme, or really have a significant role in the
13 implementation of the scheme.

14 With regard to general deterrence, Your Honor, we
15 submit that this case must be viewed differently than any
16 normal case because of the significance of his cooperation,
17 Your Honor. Because when you talk about deterrence and you
18 talk about what the public finds out when crimes are
19 committed, a young defendant with no criminal record who
20 immediately begins to cooperate -- as Ms. Crawley, I
21 believe she said his cooperation was sterling -- sterling
22 cooperation must be encouraged.

23 And so our position is that the general details
24 analysis must be viewed in a different way in this case,
25 because of the extraordinary sterling cooperation of my

1 client.

2 And a sentence outside the advisory guideline
3 range and a variance is warranted in this case, given his
4 youth, his lack of prior criminal history, his acceptance
5 of responsibility, and his efforts to really reform his
6 life.

7 The new zero point offender amendment, which the
8 probation department correctly found that he was eligible
9 for, has an application note that is also the basis for a
10 variance. A departure including a departure to the sense
11 other than a sentence of imprisonment may be appropriate if
12 the defendant received an adjustment under the zero point
13 offender, which he did.

14 And the defendant's applicable guideline range
15 overstates the gravity of the offense, because the offense
16 is a conviction, is a non-violent crime, or it's otherwise
17 -- an otherwise serious offense. So I would like to focus
18 because the offense of conviction, by its nature, as the
19 Government remarks, is a non-violent crime.

20 And so we submit that that application note
21 provides this Court with the basis for a variance with
22 regard to the need for avoiding sentencing disparities, as
23 I mentioned earlier, a young defendant with no prior record
24 who cooperates to the extent that he did and has such
25 extraordinary post-offense rehabilitation with his going to

1 therapy to understand why he did this, with him trying to
2 go to AA meetings, getting a sponsor. You received a
3 letter from his sponsor, Your Honor, that spoke to his
4 dedication for sobriety.

5 And you'll recall from the trial and from the
6 transcripts, all of the defendants in this case were
7 drinking very heavily during this case. And now he stands
8 before you today with a sponsor, going to AA meetings,
9 going to therapy, trying to understand and search for why
10 this happened and turned his life around.

11 Nicki's case is anything but average. His
12 personal history and characteristics and his extraordinary
13 cooperation weigh in favor of a variance in this case.

14 And with that, Your Honor, that's a summary of
15 the variance arguments. I let you know that he intends to
16 allocute. And I put a sentencing request in my memo. If
17 you would like me to outline that now or after he
18 allocates.

19 THE COURT: Whatever you wish to say.

20 MS. NATALI: Okay. So --

21 THE COURT: It's time to do it.

22 MS. NATALI: -- the Defense is respectfully
23 requesting a sentence for Mr. Fuchs of one day, credit for
24 time served, because as Your Honor is aware, he did spend a
25 couple of nights in the Philadelphia Federal Detention

1 Center, which was very dramatic and had quite the impact on
2 my client. So one day credit for time served, followed by
3 three years of supervised relief, with whatever conditions
4 the Court deems appropriate.

5 In looking at all the facts, the 3553(a) factors,
6 the defendants significant cooperation, as stated by the
7 Government, a sterling, the Government's 5K motion, all of
8 the various arguments, especially his youth, and the
9 factors set forth, and Dr. Atkins' report, and included in
10 the pre-sentence investigation report about his diagnostic
11 impressions, leading him to conclude that the conditions
12 have challenged him throughout his life and contributed to
13 his actions in this case, we submit that our recommended
14 sentence is sufficient, but not greater than necessary in
15 this case.

16 And if Your Honor is not inclined to order a
17 sentence in line with our request, I would just like to
18 make the Court aware, whatever conditions the Court deems
19 is appropriate, the Court could consider ordering as a
20 condition of release the first portion of it to be served
21 on home confinement.

22 And as Your Honor knows, the Third Circuit has
23 recognized that home confinement is considered
24 imprisonment, which would be in line with the Government's
25 recommendation that he gets some period of imprisonment.

1 And it's also considered punishment by the Third Circuit
2 and by many courts, including many in this district,
3 because it's a serious restriction on the defendant's
4 liberty.

5 And with that, that summarizes my arguments, Your
6 Honor.

7 THE COURT: Before we hear from Mr. Fuchs, Ms.
8 Crawley, do you wish to make any further remarks?

9 MS. CRAWLEY: Very briefly, Your Honor.

10 There are many good things to say about
11 Mr. Fuchs, but I believe his counsel goes too far. I think
12 -- I would like to be able to stand here and only sing his
13 praises, but this was a very serious offense, and it was
14 near treasonous.

15 As to the chart that Counsel had given the Court,
16 we could quibble around the edges about what other people
17 did. Mr. Hovan did in fact consent to search of his phone,
18 even though he wished he hadn't and tried to take it back.

19 But the Government, while we're very appreciative
20 of Mr. Fuchs' cooperation, we hesitate to say anything that
21 would throw shade on a person exercising their
22 constitutional rights. At the end of the day, we don't
23 really want to compare him. What we want to say is what he
24 did and why that was good.

25 As to the variances. We have all faced in our

1 lives difficulties, problems. And here, this was a crime
2 of greed. There was absolutely no financial need for
3 Mr. Fuchs to do this. And it is not worthy of a variance
4 in the Government's view that Mr. Fuchs does wish to seek
5 out the reasons why he did this later. That is admirable.
6 That is good. And he has certainly done what the
7 Government asked him to do on that side.

8 But as I said before, we're asking the Court to
9 distinguish between his cooperation on the one hand and the
10 seriousness of the offense and the need for deterrence and
11 to promote respect for the law in this most heinous of
12 cases that the Court has before it.

13 And we thank you for your patience, Your Honor.

14 THE COURT: Ms. Spicer, would you please swear in
15 the defendant.

16 NICHOLAS JAMES FUCHS,
17 the Defendant, having been first duly sworn, was examined
18 and testified as follows:

19 THE CLERK: Please state your name for the
20 record?.

21 THE DEFENDANT: Nicholas James Fuchs.

22 THE CLERK: Thank you.

23 THE COURT: Mr. Fuchs, before you make your
24 allocution. I want to ask you if you've read the pre-
25 sentence report.

1 THE DEFENDANT: Yes, Your Honor, I did.

2 THE COURT: Have you discussed it with your
3 attorney?

4 THE COURT: Yes, Your Honor.

5 THE DEFENDANT: Do you have any objections to
6 anything contained in that report?

7 THE DEFENDANT: No, I do not. Your Honor.

8 THE COURT: This is now your opportunity to
9 address the Court to advise me if anything you think I
10 should know about you and your circumstances before I
11 determine what sentence to impose.

12 THE DEFENDANT: Thank you, Your Honor.

13 Your Honor, I greatly appreciate the opportunity
14 to speak to you today. I want to first start by thanking
15 the Federal Bureau of Investigation, as well as the United
16 States Attorney's Office of the Eastern District of
17 Pennsylvania. In particular, I would like to thank special
18 agents Vicanti and Torno of the FBI, as well as current and
19 former Assistant U.S. Attorneys who worked on this case
20 Jennifer Williams, Michael Rinaldi, Patrick Murray, and
21 Mary Crawley, for their dedicated work and understanding
22 over the last four years, because they've always treated me
23 with the utmost respect and dignity. And I greatly
24 appreciate that.

25 I also want to thank the people who are here

1 supporting me the courtroom today: my mother; my brother,
2 Slater; his wife Ellen; Tim Barry, Uncle Tim; and Kelly, my
3 girlfriend and future wife. Thank you for coming today to
4 support me through this process.

5 First and foremost, I accept responsibility for
6 unlawful actions. I have no excuses for them. But I want
7 to let you know, Your Honor, how my actions have impacted
8 me since my arrest.

9 Since my arrest nearly four years ago, I have
10 come to truly understand the magnitude of my actions. I
11 lost sight of the values my parents instilled in me. My
12 actions were motivated by my desire for financial
13 independence. Excuse me. And it led me to committing
14 crimes against the United States.

15 The two nights I spent in the Philadelphia
16 Federal Detention Center were terrible. They were the
17 worst lowest moments of my life. When I sat in that cell
18 and learned some very hard lessons. At that point, I knew
19 I wanted to work hard to turn my life around. I'm deeply
20 ashamed at what I did, and even worse, I'm sad that I did
21 this to my mother and my entire family and how it has
22 impacted them.

23 My father passed away when I was 16 and I miss
24 him every day. But I'm glad he's not here to see this. My
25 father was a patriot and loved this country. He would have

1 been devastated at what I did. It deeply saddens me that
2 my actions are a stain on his legacy.

3 It felt good to work with Special Agents Vicanti
4 and Special Agent Toron to cooperate. I felt like I was
5 helping my country, restoring the values that my family had
6 instilled in me, and hopefully making my family proud that
7 I was now doing the right thing and turning my life around.

8 Every day since my arrest, I felt like I have a
9 tattoo on my forehead that says felon, screw up ,or less
10 that. This has had error vocal repercussions not only on
11 my day-to-day life and business, but also on my most
12 intimate and personal relationships, including with those
13 in the courtroom today.

14 For example, it has been hard for me to even be
15 around my mother because I know how hard this has been for
16 her.

17 Even now meeting people for the first time, I'm
18 afraid to tell them too much about myself or even tell them
19 my last name for fear that they can Google me and find out
20 about what I did. I'm ashamed and it's embarrassing. But
21 I have been taking steps to work through these issues and
22 become a better person, a very different person than I was
23 back in 2019.

24 During the last four years, I've worked to
25 restart my life, including mending relationships with

1 family. I attend AA meetings and have been for the last
2 three years. I go to therapy once a week. I'm focused on
3 my new business and being a good son, brother, and
4 boyfriend, and caring for my future stepdaughter. I want
5 to be a role model like my father was to me.

6 Your Honor, I want you to know that I've learned
7 my lesson, and I will never, ever do anything to violate
8 the law ever again. I am deeply remorseful for what I've
9 done. And again, I appreciate Your Honor taking the time
10 today to listen to my statement.

11 THE COURT: Thank you very much. You may return
12 to your seat.

13 THE DEFENDANT: Thank you, Your Honor.

14 THE COURT: Mr. Fuchs, you have pleaded guilty in
15 this court you conspiracy to violate the International
16 Emergency Economic Powers Act. And you have pleaded guilty
17 to engaging and attempting to engage in transactions
18 prohibited by the International Emergency Economic Powers
19 Act.

20 The Court must first calculate your sentence
21 under the advisory sentencing guidelines. The base offense
22 level in this case is 26. You are what we call a zero
23 point offender, which permits me to depart downward to
24 levels come to level 24.

25 I find you have accepted responsibility for your

1 conduct, and I therefore depart down for three for more
2 levels for a total offense level of 21.

3 You have no criminal history points for criminal
4 history category one. Under the advisory sentencing
5 guidelines, you could be sentenced to between 37 and 46
6 months in prison. The Government, as you have heard, has
7 filed a motion under Section 5K 1.1 of the advisory
8 sentencing guidelines, which permits me to depart downward
9 based on substantial assistance.

10 I have reviewed, of course, all the criteria
11 under Section 5K 1.1. You satisfy those criteria, and the
12 Government's motion under Section 5K 1.1 of the guidelines
13 will be granted.

14 before determining what your sentence should be,
15 I must take into account the various relevant factors under
16 Title 18, United States Code section 3553A and fashion a
17 sentence which IS sufficient but not greater than
18 necessary.

19 The factors which I should consider are the
20 nature and circumstances of the offenses and the history
21 and characteristics of you, the defendant; the seriousness
22 of the offenses; the need to promote respect for the law;
23 the need to provide a just punishment for the offenses; the
24 need to afford adequate deterrence to criminal conduct; the
25 need to protect the public from further crimes of you, the

1 defendant; and, of course, the need to avoid unwarranted
2 sentencing disparities among defendants with similar
3 records who have been found guilty of similar conduct.

4 First, Mr. Fuchs, I want to start with the
5 seriousness of the offenses.

6 There's absolutely no question that the offenses
7 which you've committed were some of the gravest offenses
8 under the Federal Criminal Code. What you were doing, in
9 essence, was to buy sanctions of Iranian oil and attempted
10 to buy sanctions of Iranian oil and to sell it to China.

11 In essence, you conspired to undermine
12 significant foreign policy of the United States of America,
13 to contain Iran, a terrorist state, which is seeking to
14 undermine the safety and security of most of the world.

15 In order to carry out its goals, Iran needs
16 money. And where does it obtain money? By selling its
17 oil? The foreign policy of the United States is designed
18 to thwart those sales. You and your co-conspirators, in
19 attempting to buy Iranian oil, engaged not in a short-term
20 conspiracy. What is so troubling here is that your goal
21 was long-term, not just to buy one shipload of oil, but to
22 continue to buy shipload after shipload over a number of
23 years. And your aim was to make millions of dollars.

24 I want to now turn to the issue of deterrence,
25 which has been raised here in this courtroom today.

1 I have absolutely no doubt that you will never
2 again be a defendant in a federal criminal matter. But the
3 Court has to be concerned about deterring others similar to
4 yourself and your co-conspirators who have the idea that
5 they can profit from the sale of sanctioned Iranian oil.

6 You were consumed by greed and other people
7 unfortunately are consumed by greed. So the Court has to
8 take that into consideration in determining what sentence
9 to impose.

10 The Court also needs to note the factor involving
11 respect for the law. Civilized society can only exist if
12 people live by the rules. And the rules apply to everyone,
13 no matter what that person's station and life may be.

14 A lot has been said here about your history and
15 characteristics. As I've said earlier, I've read the pre-
16 sentence report. I've read the report of Dr. Atkins. I've
17 read every letter that's been submitted on your behalf.
18 And, of course, I've listened intently to the statements
19 that your mother made here in the courtroom, and Mr. Barry
20 made here in the courtroom. And I was particularly
21 impressed by many of the letters that were written, again,
22 by your mother, especially, and your brother, and your
23 fiancée.

24 There's a lot of talk here today about your
25 youth. And while that is certainly a factor I take into

1 consideration, clearly what you did was not some petty,
2 youthful transaction -- transgression.

3 The Court also, as we mentioned earlier, must
4 consider your substantial cooperation. I presided over the
5 trial where you testified. Yu testified forcefully and
6 credibly. And quite rightly, you cooperated. And, of
7 course, the Court is indebted to you for what you've done
8 in that regard.

9 The Court, however, must weigh on the one hand
10 your substantial cooperation, your sincere remorse, the
11 fact that you will never again be in this court, as far as
12 I can tell, with the very grave crime you committed. You
13 may not have realized that at the time, but it was a grave
14 mistake and grave crime indeed.

15 Under the totality of the circumstances,
16 Mr. Fuchs, I'm going to commit you into the custody of the
17 Attorney General of the United States for a period of
18 imprisonment of ten months, to be followed by two years of
19 supervised release.

20 I order you to pay a fine of \$3,000 within 30
21 days.

22 And that 10-month sentence will apply to both
23 counts, the sentence to run concurrently, and two years of
24 supervised release will run concurrently on each count.

25 I want you to pay immediately a special

1 assessment of \$200.

2 I advise you of your right to appeal your
3 sentence to the United States Court of Appeals for the
4 Third Circuit to the extent you have not waived your right
5 to appeal. Any notice of appeal must be filed within 14
6 days after I sign the judgment and commitment order.

7 If you wish a notice of appeal to be entered, you
8 may indicate that to the deputy clerk here in the courtroom
9 and she will enter a notice of appeal on your behalf. As I
10 said, a notice of appeal must be filed within 14 days after
11 I sign the judgment and commitment order.

12 I order you to self-surrender on March 11, 2024.

13 I will sign the various orders that have been
14 presented to me in terms of sealing and impoundment.

15 Anything further from the Government.

16 MS. CRAWLEY: Nothing further, Your Honor.

17 THE COURT: Ms. Natali, anything further?

18 MS. NATALI: We would recommend -- we would like
19 to request that we recommend to the Bureau of Prisons that
20 he'd be designated to the appropriate facility closest to
21 his residence in Santa Barbara so that his family can visit
22 him.

23 THE COURT: I will make that recommendation to
24 the Bureau of Prisons, although it's not binding, of
25 course, but I'd be happy to do that.

1 Anything further at this time?

2 MS. CRAWLEY: No, Your Honor.

3 THE COURT: Mr. Fuchs, this is a very sad day,
4 and unfortunately, your family is also been punished. And
5 that's inevitable in these situations. It's very sad
6 indeed.

7 After you serve your prison sentence, I hope you
8 will become a useful and productive citizen. I have no
9 doubt that you will.

10 Thank you.

11 THE CLERK: All rise.

12 (Proceedings concluded at 3:10 p.m.)

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C E R T I F I C A T I O N

I, Valori Weber, court approved transcriber,
certify that the foregoing is a correct transcript from
the official electronic sound recording of the
proceedings in the above-entitled matter, and to the
best of my ability.

/s/ Valori Weber

Valori Weber

Dated: February 18, 2024